

Amendment

Serial No.: 08/099,257

Filed: July 29, 1993

Title: VEHICLE DETECTOR WITH ENVIRONMENTAL ADAPTATION

Page 9 of 11

### REMARKS

Reconsideration of the application in light of the above amendments and the following remarks is respectfully requested. Claims 1-13 have been amended. Claims 1-13 are pending.

### §101 Rejection

Paragraph 2 rejected claims 1-13 under 35 U.S.C. §101 as being directed to non-statutory subject matter.

Claims 1-13 have been amended to recite that the claimed methods comprise “the computer implemented steps of . . .” The claims as amended recite specific operational steps that are implemented by a computer. In accordance with the Proposed Examination Guidelines for Computer-Implemented Inventions, Section I.B.(c)(iii), a series of specific operational steps to be performed on or with the aid of a computer is a statutory process. Therefore, Applicant respectfully submits that the invention as claimed is directed to statutory subject matter, and respectfully requests that the rejection under 35 U.S.C. §101 be withdrawn.

### §112 First Paragraph

The specification under 35 U.S.C. §112, first paragraph for failing to provide an enabling disclosure. Claims 1-13 under 35 U.S.C. §112, first paragraph for the same reasons set forth in the objection to the specification. Applicant respectfully traverses these rejections.

Applicant respectfully submits that the specification and drawings are sufficient to enable one of ordinary skill in the art at the time the invention was made to make and use the invention. Applicant reiterates and incorporates all of the

Amendment

Serial No.: 08/099,257

Filed: July 29, 1993

Title: VEHICLE DETECTOR WITH ENVIRONMENTAL ADAPTATION

Page 10 of 11

arguments from the Amendment mailed November 21, 1994. The drawings show the apparatus that performs the claimed methods. The specification specifically describes how the methods are carried out by the apparatus. The disclosure is therefore fully enabling and Applicant respectfully request that the rejections under 35 U.S.C. §112, first paragraph, be withdrawn.

#### Obvious-type Double Patenting Rejection

Paragraph 5 of the Office Action rejected claims 1-13 under the judicially created doctrine of obvious-type double patenting as being unpatentable over claims 1-17 of U.S. Patent Number 5,728,555 (hereinafter Hoekman '555). Applicant respectfully traverses this rejection.

The Office Action says that because the claimed invention and Hoekman '555 have various calculations performed by the same processor, and include the same structural elements, the present claims are not patentably distinct because "programming of a processor does not constitute an inventive step".

Applicant respectfully disagrees. Applicant reiterates and incorporates all of the arguments from the Amendment mailed November 21, 1994. The present claims are directed to methods for adapting a vehicle detector to changing environmental or mechanical conditions. In contrast, method claims 1-17 of Hoekman '555 are concerned only with methods for detecting vehicles (e.g., claim 1), methods for determining vehicle speed (e.g., claims 2, 8-10, 13-17), detection of multiple vehicles (e.g., claims 3, 11, 14) and determination of vehicle length (e.g., claims 4 and 12). None of claims 1-17 of Hoekman '555 recite or suggest the method for adapting a vehicle detector to changing conditions as recited in present claims 1-13.

Amendment

Serial No.: 08/099,257

Filed: July 29, 1993

Title: VEHICLE DETECTOR WITH ENVIRONMENTAL ADAPTATION

Page 11 of 11

Applicant therefore respectfully requests that the rejection of claims 1-13 under the judicially created doctrine of obvious-type double patenting over claims 1-17 of Hoekman '555 be withdrawn.

**CONCLUSION**

In light of the above amendments and remarks, Applicant respectfully submits that the claims as amended are in condition for allowance. Applicant therefore respectfully requests a favorable Action on the merits.

Please direct any inquiries to Kari H. Bartingale at (612) 736-7176.

Respectfully submitted,  
Date July 7, 1995 By Kari H. Bartingale  
Kari H. Bartingale  
Registration No. 35,183

3M Office of Intellectual Property Counsel  
Box 33427  
St. Paul, MN 55133-3427  
(612) 736-7176

KHB/spg  
47241-7B.AM3